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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Robert M. Fries

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10/06/2006

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EXAMINER

CHOWDHURY, SUMAIYA A

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/895,452

Applicant(s)

FRIES, ROBERT M.

Examiner

Sumaiya A. Chowdhury

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40,41 and 47-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40-41,47-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/25/06

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 40-41 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. Claims 56, 61, and 62 have been added by the aforementioned amendment.

These claims define applicant's invention in a "means plus function" format, each reciting a "mean for" followed by functional language, and not limited by structure.

Thus, "means plus function" is automatically invoked (In re Donaldson Co., 16 F.3d 1189, 29 USPQ2d 1845 (Fed. Cir. 1994); Refer to MPEP 2181).

However, in order to invoke mean plus function, the 35 U.S.C. 112, second paragraph requirements must be met (MPEP 2181, PROCEDURES FOR DETERMINING WHETHER THE WRITTEN DESCRIPTION ADEQUATELY DESCRIBES THE CORRESPONDING STRUCTURE, MATERIAL, OR ACTS NECESSARY TO SUPPORT A CLAIM LIMITATION WHICH INVOKES 35 U.S.C. 112, SIXTH PARAGRAPH). The MPEP (2181) states, and supports with the applicable law, the following: "If a claim limitation invokes 35 U.S.C. 112, sixth paragraph, it must be interpreted to cover the corresponding structure, materials, or acts in the specification and "equivalents thereof." See 35 U.S.C. 112, sixth paragraph. See also B. Braun Medical, Inc. v. Abbott Lab., 124 F.3d 1419, 1424, 43 USPQ2d 1896, 1899 (Fed. Cir.1997). If the written description fails to set forth the supporting structure, material or

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acts corresponding to the means- (or step-) plus-function, the claim may not meet the requirement of 35 U.S.C. 112, second paragraph:

Although [35 U.S.C. 112, sixth paragraph] statutorily provides that one may use means-plus-function language in a claim, one is still subject to the requirement that a claim particularly point out and distinctly claim the invention. Therefore, if one employs means-plus-function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by [35 U.S.C. 112, second paragraph].

See Donaldson, 16 F.3d at 1195, 29 USPQ2d at 1850; see also B. Braun Medical, 124 F.3d at 1425, 43 USPQ2d at 1900; and In re Dossel, 115 F.3d 942,946, 42 USPQ2d 1881, 1884-85 (Fed. Cir. 1997)." And "Therefore, a means-(or step-) plus-function claim limitation satisfies 35 U.S.C. 112, second paragraph if: (A) the written description links or associates particular structure, materials, or acts to the function recited in a means- (or step-) plus-function claim limitation; or (B) it is clear based on the facts of the application that one skilled in the art would have known what structure, materials, or acts perform the function recited in a means-(or step-) plus-function limitation."

Upon reviewing applicant's original disclosure (i.e., specification, claims), it is the examiner's conclusion that the written description does not link or associate particular structure to the function recited in the means-plus-function claim limitations, and it is not clear based on the facts of the application that one skilled in the art would have known what structure or materials perform the function recited in a means-plus- function limitation".

For example, claim 56 recites, "means for providing...for that new page", "means for modifying...to the new page", "means for modifying ... by the new page", and "means for injecting ... to subscriber receivers". The specification only refers to a generalized system for performing these functions but not a specific technique or procedure used to achieve the result. The specification fails to provide any specifics regarding a structure with a specific technique or procedure for inserting a new page and modifying metadata. The majority of the specification is directed to a method, and the steps performed by the method. The specification does not describe the specific structure of the apparatus.

Additionally claim 61 refers to "means for transmitting ... pattern to the receiver", "means for receiving ... the receiver", and "means for displaying ...is received". The specification only refers to a generalized system to "execute a program that selectively injects the pages into the transport stream". The specification only refers to a generalized system for performing these functions but not a specific technique or procedure used to achieve the result. The specification fails to provide any specifics regarding a structure with a specific technique or procedure for inserting a new page and modifying metadata. The majority of the specification is directed to a method, and the steps performed by the method. The specification does not describe the specific structure of the apparatus.

Additionally claim 62 refers to "means for selecting...transmission" and "means for injecting...other page". The specification only refers to a generalized system to "execute a program that selectively injects the pages into the transport stream". The specification only refers to a generalized system for performing these functions but not a specific technique or procedure used to achieve the result. The specification fails to provide any specifics regarding a structure with a specific technique or procedure for inserting a new page and modifying metadata. The majority of the specification is directed to a method, and the steps performed by the method. The specification does not describe the specific structure of the apparatus.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 51-55, and 61-62, are rejected under 35 U.S.C. 102(e) as being anticipated by Bisdikian (6047317).

As for claims 51 and 61, Bisdikian teaches in an audiovideo transmission environment, a method comprising:

Means (16 – Fig. 1) for transmitting a stream of video data from a source (14 – Fig. 1) to a receiver (18 – Fig. 1) including transmitting a plurality of pages of content in a substantially recurring pattern to the receiver – col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

Means (52 – Fig. 5) for receiving the video data at the receiver – col. 4, lines 57-61.

Means (television display) for displaying a desired page of the plurality of pages, including waiting a latency time until the desired page in the recurring pattern is received – col. 6, lines 9-20; and

Wherein in the recurring pattern, the source transmits one of the pages more frequently than another page, such that when the desired page is the page that is transmitted more frequently, a maximum latency time for displaying the more frequently transmitted page (directory frame) is less than a maximum latency time for displaying the other page when the other page is the desired page – col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

As for claims 52 and 55 Bisdikian teaches wherein the page that is transmitted more frequently is transmitted in the recurring pattern at spaced-apart time – Fig. 2A, col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

As for claim 53, Bisdikian teaches wherein the page that is transmitted more frequently comprises a home page (directory frame) – col. 3, lines 55-57.

Claims 54 and 62 contain the limitations of claim 51 and are analyzed as previously discussed with respect to that claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 40-41, 47-50, 56-60, and 63, are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanigawa in view of Bisdikian.

As for claims 40 and 56, Tanigawa teaches in a source of audiovideo data transmitted to a plurality of subscriber receivers, a system comprising:

(a) means (WWW server) for providing a new page (801 – Fig. 8A; first page) of content for a carousel (cyclically transmitted; Fig. 11A; col. 19, lines 47-51) of pages (col. 13, lines 3-7);

(b) means (WWW server) for modifying metadata (link information) for other pages (second page and third page) in the carousel that contain links to the new page (col. 13, line 64 – col. 14, line 48);

(c) means (WWW server) for modifying metadata (link information) for the new page for each other page that is linked to by the new page (col. 12, lines 20-43, col. 13, lines 21-63);

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(d) means (116) for repeating steps (a)-(c) until at least some of the pages in the carousel of pages are determined to be ready for transmission (col. 19, lines 29-50; Fig. 11A & Fig. 11B);

(e) means (116) for injecting each page in the carousel onto a transmission medium (ground wave) for transmission to the subscriber receivers (150 – Fig. 1; col. 19, lines 29-50, Fig. 11A & Fig. 11B).

However, Tanigawa fails to teach in which the new page is placed in the carousel more than once to reduce a maximum latency for that new page.

In an analogous art, Bisdikian teaches a new page is placed in the carousel more than once to reduce a maximum latency for that new page - col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Tanigawa's invention to include the above mentioned limitation, as taught by Bisdikian, for the advantage of reducing the user's waiting time.

As for claim 41, Tanigawa and Bisdikian teach the claimed limitations. In particular, Tanigawa teaches step (e) is repeated on a regular basis until at least one other new page is provided, and when the at least one other new page is provided, returning to step (b) – (col. 19, lines 29-50, Fig. 11A & Fig. 11B).

As for claims 47 and 57, Tanigawa and Bisdikian teach the claimed limitations. In particular, Bisdikian teaches providing the new page of content comprises inserting a

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new page in place of an old page on a substantially regular basis, thereby providing a slide show effect from a perspective of a viewer that corresponds to one of the subscriber receivers – col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

As for claims 48 and 58, Tanigawa and Bisdikian teach the claimed limitations. In particular, Tanigawa teaches wherein page metadata for the new page includes an automatic link to itself such that a subscriber receiver reacquires page metadata of the new page when the new page is received – col. 12, lines 20-43, col. 13, lines 21-63.

As for claims 49 and 59, Tanigawa and Bisdikian teach the claimed limitations. In particular, Tanigawa teaches wherein page metadata for the new page includes an automatic link to another page such that when the automatic link is interpreted at a subscriber receiver, the subscriber receiver automatically displays the other page when available at the receiver – (col. 13, line 64 – col. 14, line 48).

As for claims 50 and 60, Tanigawa and Bisdikian teach the claimed limitations. In particular, Bisdikian teaches wherein the new page is placed in the carousel at spaced apart locations – Fig. 2A, col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

As for claim 63, Tanigawa and Bisdikian teach the claimed limitations. In particular, Bisdikian teaches wherein the page that is transmitted more frequently is

injected at spaced apart locations – Fig. 2A, col. 3, line 62 – col. 4, line 5, col. 4, lines 42-53.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sumaiya A. Chowdhury whose telephone number is (571) 272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAC



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